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Attorneys for Plaintiffs,
UMG RECORDINGS, INC.; ARISTA
RECORDS LLC; LAFACE RECORDS
LLC; ZOMBA RECORDING LLC;
CAPITOL RECORDS, INC.; SONY BMG
MUSIC ENTERTAINMENT; and BMG
MUSIC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
DIVISION

UMG RECORDINGS, INC., a Delaware
corporation; ARISTA RECORDS LLC, a
Delaware limited liability company; LAFACE
RECORDS LLC, a Delaware limited liability
company; ZOMBA RECORDING LLC, a
Delaware limited liability company; CAPITOL
RECORDS, INC., a Delaware corporation;
SONY BMG MUSIC ENTERTAINMENT, a
Delaware general partnership; and BMG
MUSIC, a New York general partnership,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CV 08 1192

**EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY**

EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY

Case No. _____

#35883 v1

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
 2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
 3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
 6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
 7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant, who is
 8 being sued for direct copyright infringement.¹

9 2. As alleged in the complaint, Defendant, without authorization, used an online media
 10 distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted works to
 11 the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have identified
 12 Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date and time
 13 of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
 15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
 16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
 17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated
 18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
 20 Rule 26(f) conference where there are no known defendants with whom to confer.

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 25 ¹ Because Plaintiffs do not yet know Defendant's true identity, Plaintiffs are unable to
 26 personally serve Defendant with a copy of this motion. Instead, Plaintiffs will serve the Clerk of
 27 Court pursuant to Fed. R. Civ. P. 5(b)(2)(D) ("A paper is served under this rule by . . . leaving it with
 28 the court clerk if the person has no known address.") and will serve Defendant's ISP with a copy of
 this motion. Additionally, if the Court grants this motion, Plaintiffs will ask the ISP to notify the
 Defendants of the subpoena and provide Defendant with an opportunity to object.

1 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the
2 foregoing requested discovery immediately.

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4 Dated: February 28, 2008

HOLME ROBERTS & OWEN LLP

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6 By



MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

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